

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35487

STATE OF IDAHO,	)	2009 Unpublished Opinion No. 526
	)	
Plaintiff-Respondent,	)	Filed: July 8, 2009
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
SHARON SPRINGS BRODIGAN,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Ronald J. Wilper, District Judge.

Order revoking probation and ordering into execution previously imposed sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sarah E. Tompkins, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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Before LANSING, Chief Judge, PERRY, Judge  
and GUTIERREZ, Judge

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PER CURIAM

Sharon Springs Brodigan was charged with driving under the influence of alcohol, I.C. §§ 18-8004, 18-8005(5), and pursuant to a plea agreement, pled guilty to the charge. The district court sentenced Brodigan to a unified term of five years, with two years determinate, suspended the sentence and placed Brodigan on probation for five years. As conditions of her probation, Brodigan was to abstain from alcohol and to serve 185 days in jail and complete the jail's in-patient substance abuse treatment. Brodigan's driver's license was suspended for five years. Brodigan continued to abuse alcohol and drugs and the district court ordered sixty days of discretionary jail time. Later, a probation violation was filed and the district court revoked Brodigan's probation and ordered the underlying sentence into execution and retained

jurisdiction. After Brodigan completed her rider, the district court suspended her sentence and again placed her on probation for five years. Brodigan again violated the terms of her probation and the district court revoked her probation and ordered the underlying sentence into execution. Pursuant to an Idaho Criminal Rule 35 motion, the district court reinstated Brodigan's probation and as a term of probation, ordered her to participate in and successfully complete the Ada County Drug Court program. Brodigan successfully completed the drug court program and was continued on probation. Brodigan again violated the terms of her probation and requested that the district court allow her to be evaluated for mental health court. The district court revoked Brodigan's probation, declined the request for mental health court and ordered the underlying sentence into execution. Brodigan appeals, contending that the district court abused its discretion by failing to order an assessment for placement in mental health court and in the alternative, by failing to *sua sponte* reduce her sentence.

The district court may, after a probation violation has been established, order that the suspended sentence be executed or, in the alternative, the court is authorized under Idaho Criminal Rule 35 to reduce the sentence. *State v. Beckett*, 122 Idaho 324, 325, 834 P.2d 326, 327 (Ct. App. 1992); *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989).

Both our standard of review and the factors to be considered in evaluating the reasonableness of a sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007). When we review a sentence that is ordered into execution following a period of probation, we do not base our review upon the facts existing when the sentence was imposed. Rather we examine all the circumstances bearing upon the decision to revoke probation and require execution of the sentence, including events that occurred between the original pronouncement of the sentence and the revocation of probation. *State v. Adams*, 115 Idaho 1053, 1055, 722 P.2d 260, 262 (Ct. App. 1989); *State v. Grove*, 109 Idaho 372, 373, 707 P.2d 483, 484 (Ct. App. 1985); *State v. Tucker*, 103 Idaho 885, 888, 655 P.2d 92, 95 (Ct. App. 1982).

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion either in denying an assessment for consideration

of placement in mental health court, or in ordering execution of Brodigan's original sentence without modification. Therefore, the order revoking probation and directing execution of Brodigan's previously suspended sentence is affirmed.